

SENATE BILL 744

Unofficial Copy
E2

2004 Regular Session
4r2433

By: ~~Senator Hughes~~ **Senators Hughes, Forehand, Garagiola, Giannetti, and Green**

Introduced and read first time: February 6, 2004
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 25, 2004

CHAPTER _____

1 AN ACT concerning

2 **Death Penalty - Maryland Commission on Capital Punishment**

3 FOR the purpose of establishing a Maryland Commission on Capital Punishment;
4 providing for the membership of the Commission; ~~establishing~~ providing for the
5 election of the chairman of the Commission; authorizing the Commission to hold
6 public hearings; providing for the staffing of the Commission; requiring certain
7 entities to cooperate with the Commission; providing for the funding of the
8 Commission; providing that a member of the Commission may not receive
9 compensation but is entitled to certain reimbursement; establishing the duties
10 of the Commission; requiring the Commission to make certain reports at certain
11 times; providing for the construction of this Act; providing for the termination of
12 this Act; and generally relating to the death penalty.

13 BY adding to
14 Article - Correctional Services
15 Section 3-910
16 Annotated Code of Maryland
17 (1999 Volume and 2003 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Correctional Services

2 3-910.

3 (A) IN THIS SECTION, "COMMISSION" MEANS THE MARYLAND COMMISSION ON
4 CAPITAL PUNISHMENT.

5 (B) THERE IS A MARYLAND COMMISSION ON CAPITAL PUNISHMENT.

6 (C) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

7 ~~(1)~~ ~~THE LIEUTENANT GOVERNOR;~~

8 ~~(2)~~ (1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY
9 THE PRESIDENT;

10 ~~(3)~~ (2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY
11 THE SPEAKER OF THE HOUSE;

12 ~~(4)~~ (3) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S
13 DESIGNEE;

14 ~~(5)~~ (4) THE STATE PUBLIC DEFENDER, OR THE STATE PUBLIC
15 DEFENDER'S DESIGNEE;

16 ~~(6)~~ (5) A STATE'S ATTORNEY, RECOMMENDED BY THE PRESIDENT OF
17 THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION;

18 ~~(7)~~ (6) THE PRESIDENT OF THE MARYLAND STATE BAR ASSOCIATION,
19 OR THE PRESIDENT'S DESIGNEE WHO IS NOT A PROSECUTOR OR CRIMINAL DEFENSE
20 ATTORNEY;

21 ~~(8)~~ (7) ONE MEMBER OF THE JUDICIARY, APPOINTED BY THE CHIEF
22 JUDGE OF THE COURT OF APPEALS;

23 ~~(9)~~ (8) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
24 SERVICES, OR THE SECRETARY'S DESIGNEE;

25 ~~(10)~~ (9) THE PRESIDENT OF THE MARYLAND CONFERENCE OF THE
26 NAACP, OR THE PRESIDENT'S DESIGNEE; AND

27 ~~(11)~~ (10) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

28 (I) ONE REPRESENTATIVE OF THE MARYLAND CRIME VICTIM'S
29 RESOURCE CENTER;

30 (II) ONE REPRESENTATIVE OF THE RELIGIOUS COMMUNITY;

31 (III) TWO REPRESENTATIVES OF THE GENERAL PUBLIC.

1 (D) THE CHAIRMAN OF THE COMMISSION SHALL BE ~~THE LIEUTENANT~~
2 ~~GOVERNOR~~ ELECTED BY THE MEMBERS OF THE COMMISSION.

3 (E) THE COMMISSION MAY HOLD PUBLIC HEARINGS.

4 (F) (1) THE MARYLAND JUSTICE ANALYSIS CENTER OF THE DEPARTMENT
5 OF CRIMINOLOGY AT THE UNIVERSITY OF MARYLAND SHALL PROVIDE STAFF FOR
6 THE COMMISSION.

7 (2) ALL STATE, COUNTY, AND MUNICIPAL AGENCIES, DEPARTMENTS,
8 BOARDS, BUREAUS, COMMISSIONS, AND AGENCIES SHALL COOPERATE FULLY WITH
9 THE COMMISSION.

10 (G) FUNDS NECESSARY FOR THE FUNCTIONING OF THE COMMISSION SHALL
11 BE AS PROVIDED IN THE STATE BUDGET.

12 (H) A MEMBER OF THE COMMISSION:

13 (1) MAY NOT RECEIVE COMPENSATION; BUT

14 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
15 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

16 (I) (1) THE COMMISSION SHALL:

17 (I) STUDY CAPITAL PUNISHMENT IN THE STATE; AND

18 (II) REVIEW:

19 1. THE FINDINGS OF THE 2-YEAR UNIVERSITY OF
20 MARYLAND STUDY, "AN EMPIRICAL ANALYSIS OF MARYLAND'S DEATH SENTENCING
21 SYSTEM WITH RESPECT TO THE INFLUENCE OF RACE AND LEGAL JURISDICTION";

22 2. THE JUNE 2001 PROTOCOLS OF THE AMERICAN BAR
23 ASSOCIATION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES;

24 3. "MANDATORY JUSTICE: EIGHTEEN REFORMS TO THE
25 DEATH PENALTY", A REPORT OF THE CONSTITUTION PROJECT'S BIPARTISAN,
26 BLUE-RIBBON COMMISSION OF CAPITAL PUNISHMENT SUPPORTERS AND
27 OPPONENTS; AND

28 4. OTHER NONPARTISAN, ACADEMIC, OR GOVERNMENTAL
29 INQUIRIES INTO THE ADMINISTRATION OF CAPITAL PUNISHMENT AT STATE AND
30 NATIONAL LEVELS.

31 (2) (I) THE COMMISSION SHALL MAKE RECOMMENDATIONS TO
32 GUARANTEE THAT THE APPLICATION AND ADMINISTRATION OF CAPITAL
33 PUNISHMENT IN THE STATE AND THE PUBLIC POLICY OF THE STATE REGARDING
34 CAPITAL PUNISHMENT ARE FREE FROM BIAS AND ERROR AND DESIGNED TO
35 GUARANTEE FAIRNESS AND ACCURACY.

- 1 (II) THE RECOMMENDATIONS SHALL ADDRESS:
- 2 1. RACIAL DISPARITIES;
- 3 2. JURISDICTIONAL DISPARITIES;
- 4 3. SOCIO-ECONOMIC DISPARITIES;
- 5 4. THE RISK OF INNOCENT PEOPLE BEING EXECUTED;
- 6 5. EVOLVING STANDARDS OF DECENCY REGARDING STATE
7 EXECUTIONS; AND
- 8 6. A COMPARISON OF THE COSTS ASSOCIATED WITH DEATH
9 SENTENCES AND THE COSTS ASSOCIATED WITH SENTENCES OF LIFE
10 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE.

11 (J) (1) THE COMMISSION SHALL MAKE A PRELIMINARY REPORT ON ITS
12 FINDINGS AND RECOMMENDATIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE
13 GOVERNMENT ARTICLE, TO THE HOUSE JUDICIARY COMMITTEE AND THE SENATE
14 JUDICIAL PROCEEDINGS COMMITTEE DURING THE 2005 SESSION OF THE GENERAL
15 ASSEMBLY.

16 (2) THE COMMISSION SHALL MAKE A FINAL REPORT ON ITS FINDINGS
17 AND RECOMMENDATIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE
18 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE NOVEMBER 30,
19 2005.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
21 construed to affect in any way the law concerning the death penalty, including the
22 procedures and time frames for notifications, determinations, and judicial review of
23 death penalty decisions.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
25 effect July 1, 2004. It shall remain effective for a period of 1 year and 6 months and,
26 at the end of December 31, 2005, with no further action required by the General
27 Assembly, this Act shall be abrogated and of no further force and effect.